

Message Text

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ACTION ARA-20

INFO OCT-01 ISO-00 SSO-00 SS-20 NSC-07 NSCE-00 DODE-00 L-03

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----- 122269

O 111557Z MAY 74

FM AMEMBASSY PANAMA

TO SECSTATE WASHDC IMMEDIATE 616

INFO GOV PANCANAL IMMEDIATE

USINCSO IMMEDIATE

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S/S-O PASS TO AMBASSADOR BUNKER FROM BELL

DEPARTMENT OF THE ARMY FOR AMBASSADOR KOREN; STATE/ARA FOR
AMBASSADOR BOWDLER; STATE/L FOR MR. FELDMAN

E.O. 11652: N/A

TAGS: PN, PFOR

SUBJECT: U.S.-PANAMA TREATY NEGOTIATIONS: REPORT OF
DEVELOPMENTS-STATUS OF INFORMAL WORKING
PAPERS AT THE DEPUTY NEGOTIATOR LEVEL
(5:00 PM, 5/10/74).

THIS MESSAGE IS FOR UNLIMITED DISTRIBUTIONM

I.

THE DEPUTIES HAVE BEEN NEGOTIATING WITH THE UNITED STATES
COUNTER-DRAFT OF 5/7/74 AS A BASE SINCE THE AFTERNOON OF MAY 9, AND
HAVE NOW AGREED UPON A VERSION OF A MAJOR ISSUES PAPER (DATED 5/10/
74) WHICH AMBASSADOR GONZALEZ IS PREPARED TO DEFEND BEFORE THE FOR-
EIGN MINISTER THIS WEEKEND.

DEPARTURES FROM THE 5/7/74 COUNTER-DRAFT REFLECT ACCOMODA-
TIONS TO THE FACT THAT THE PANAMANIAN (A) WISH TO ADHERE AS
CLOSELY AS POSSIBLE TO THE LANGUAGE OF THE EIGHT PRINCIPLES;
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(B) EXAMINE EVERY WORD

FOR SIGNS OF PERPETUITY OR INADEQUATE SIGNS OF SOVEREIGNTY; AND
(C) CARE NOTHING AT ALL FOR SYNTAX.

THE AMBASSADOR HAS SEEMED TO APPRECIATE THIS SORT OF
ACCOMODATION AND THAT THE UNITED STATES' STOCK OF IT IS NOW
ABOUT EXHAUSTED.

KOZAK AND I ARE TO DEPART CONTADORA FOR PANAMA CITY THE
AFTERNOON OF MAY 13. ANY COMMENTS WASHINGTON AGENCIES MAY HAVE ON
THE 5/10/74 VERSION AT THE CLOSE OF THIS MESSAGE SHOULD BE
COMMUNICATED THROUGH THE EMBASSY BY 5:00 PM PANAMA TIME THAT DAY,
SINCE I PROPOSE TO COMPLETE THE NEGOTIATION THAT EVENING. OUR
DEPARTURE FOR WASHINGTON IS NOW SCHEDULED FOR MAY 14.

II.

I EMPHASIZED TO GONZALEZ IN ONE OF THE PERSONAL NOTES TO
HIM OF WHICH THE FOREIGN MINISTER SEEMS FOND THAT THERE IS NO
ASSURANCE THE UNITED STATES WOULD BE ABLE TO TALK ABOUT JURISDIC-
TION AT THE NEXT MEETING OF CHIEF NEGOTIATORS, AND THAT AMBASSADOR
BUNKER WILL BE CONSULTING ON THE MATTER. IN ANY CASE, I SAID,
THERE IS SO LITTLE TIME BETWEEN NOW AND THE PROPOSED MEETING AT
THE END OF MAY FOR EITHER SIDE TO GEAR UP THAT THE CONVERSATIONS,
THOUGH SUBSTANTIVE, MIGHT WELL HAVE TO BE QUITE GENERAL IN NATURE.

IT STRIKES ME THAT IF WE ARE TO AGREE TO TALK ABOUT JURISDIC-
TION, THEN WE SHOULD TRY TO COUPLE WITH IT THE ISSUE OF THE RE-
TAINED UNITED STATES' ADMINISTRATIVE OR "USE" RIGHTS, SO THAT THERE
CAN BE SIMULTANEOUS ACCOMODATIONS.

I MENTIONED TO GONZALEZ THAT OVER THE LAST FEW MONTHS THE
UNITED STATES HAD MADE A NUMBER OF GESTURES AND ACCOMODATIONS TO
PANAMANIAN POSITIONS WHICH THUS FAR HAD BEEN REQUITED ONLY BY
THE MAINTENANCE OF A PROPER CLIMATE FOR NEGOTIATION. THAT CLIMATE
IS OF COURSE GRATIFYING, BUT I WONDERED WHETHER IT MIGHT NOT BE
USEFUL FOR PANAMA TO PROVIDE THE UNITED STATES AT THIS STAGE WITH
SOME TANGIBLE EARNEST OF ITS GOOD NEGOTIATING INTENT. HAVING
CONSULTED THE FOREIGN MINISTER, GONZALEZ SAID THE POINT WAS WELL
TAKEN AND IT WOULD BE CONSIDERED.

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III.

PRINCIPLE ONE

(SAME AS THE 5/7/74 COUNTER-DRAFT)

PRINCIPLE TWO

MAJOR ISSUES:

(SAME AS THE 5/7/74 COUNTER-DRAFT)

DEPUTIES' COMMENTS:

NONE.

PRINCIPLE THREE

MAJOR ISSUES:

1. THE QUESTION OF THE DECISIONS ON THE ARRANGEMENTS FOR THE REPLACEMENT OF THE UNITED STATES' GENERAL JURISDICTION OVER PANAMANIAN TERRITORY AND OF ITS RETURN OF PANAMA, AS WELL AS OF THE ORDER AND TIME-PERIODS FOR THAT REPLACEMENT, IT IS RECOGNIZED THAT THE DECISIONS ON THE REPLACEMENT ARRANGEMENTS CONCERNING CIVIL AND CRIMINAL JURISDICTION OVER PANAMANIAN NATIONALS IS THE MOST SIGNIFICANT ASPECT OF THIS QUESTION.
2. THE QUESTION OF THE ARRANGEMENTS FOR THE TERMINATION OF THE UNITED STATES AGENCY KNOWN AS THE CANAL ZONE GOVERNMENT.

DEPUTIES' COMMENTS:

1. THE DEPUTIES NOTE THE CONCEPTUAL AGREEMENT OF THE CHIEF NEGOTIATORS THAT IT WOULD BE USEFUL FOR THE TREATY TO DISTINGUISH BETWEEN TWO TYPES OF RIGHTS: (I) RIGHTS OF THE REPUBLIC OF PANAMA (ENCOMPASSED UNDER PRINCIPLE THREE) TO EXERCISE GENERAL JURISDICTION OVER PANAMANIAN TERRITORY, AND (II) ADMINISTRATIVE OR "USE" RIGHTS WHICH WILL BE EXERCISED BY THE UNITED STATES (ENCOMPASSED UNDER PRINCIPLES FOUR AND SIX) WITH RESPECT TO SPECIFIC FUNCTIONS OF CANAL OPERATION, MAINTENANCE, PROTECTION AND DEFENSE.
2. THE DEPUTIES WISH TO REAFFIRM THE CONCEPT IN THE PRINCIPLE THAT ALL RIGHTS WHICH ARE NOT CONFERRED ON THE UNITED STATES IN THE NEW TREATY ARE RIGHTS LIMITED OFFICIAL USE

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BELONGING EXCLUSIVELY TO PANAMA.

PRINCIPLE FOUR

MAJORS ISSUES:

1. THE QUESTION OF WHICH WILL BE THE AREAS IN WHICH PANAMA WILL CONFER ON THE UNITED STATES "USE" RIGHTS FOR THE FUNCTIONS OF OPERATION, MAINTENANCE, PROTECTION AND DEFENSE OF THE CANAL AND THE TRANSIT OF SHIPS. IT IS RECOGNIZED THAT THE DECISIONS ON WHAT IS NECESSARY IN THIS SENSE, AND WHAT IS NOT, WILL BE DETERMINED BY BOTH PARTIES IN THE COURSE OF THE NEGOTIATIONS.

DEPUTIES' COMMENTS:

NONE.

PRINCIPLES FIVE, SIX AND DEVEN

(SAME AS IN THE 5/7/74 COUNTER-DRAFT)

PRINCIPLE EIGHT

MAJOR ISSUES:

(SAME AS IN THE 5/7/74 COUNTER-DRAFT)

DEPUTIES' COMMENTS:

NONE.

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